

## PATENT COOPERATION TREATY

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## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 2003CH008	<b>FOR FURTHER ACTION</b>		See Form PCT/IPEA/416
International application No. PCT/IB2004/003220	International filing date (day/month/year) 04.10.2004	Priority date (day/month/year) 07.10.2003	
International Patent Classification (IPC) or national classification and IPC C08G77/00			
Applicant CLARIANT INTERNATIONAL LTD et al.			
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> <i>(sent to the applicant and to the International Bureau)</i> a total of sheets, as follows:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</li> <li><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</li> </ul> <p>b. <input type="checkbox"/> <i>(sent to the International Bureau only)</i> a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>			
<p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Box No. I Basis of the opinion</li> <li><input type="checkbox"/> Box No. II Priority</li> <li><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</li> <li><input type="checkbox"/> Box No. IV Lack of unity of invention</li> <li><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</li> <li><input checked="" type="checkbox"/> Box No. VI Certain documents cited</li> <li><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</li> <li><input type="checkbox"/> Box No. VIII Certain observations on the international application</li> </ul>			
Date of submission of the demand 07.04.2005	Date of completion of this report 23.08.2005		
Name and mailing address of the international preliminary examining authority: European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer  Glomm, B Telephone No. +49 89 2399- 		

**INTERNATIONAL PRELIMINARY REPORT  
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PCT/IB2004/003220

**Box No. I Basis of the report**

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
  - This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
    - international search (under Rules 12.3 and 23.1(b))
    - publication of the international application (under Rule 12.4)
    - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements\*** of the international application, this report is based on (replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):

**Description, Pages**

1-21 as originally filed

**Claims, Numbers**

1-12 as originally filed

- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3.  The amendments have resulted in the cancellation of:

- the description, pages
- the claims, Nos.
- the drawings, sheets/figs
- the sequence listing (specify):
- any table(s) related to sequence listing (specify):

4.  This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- the description, pages
- the claims, Nos.
- the drawings, sheets/figs
- the sequence listing (specify):
- any table(s) related to sequence listing (specify):

\* If item 4 applies, some or all of these sheets may be marked "superseded."

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**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Yes: Claims	
	No: Claims	1-12
Inventive step (IS)	Yes: Claims	
	No: Claims	1-12
Industrial applicability (IA)	Yes: Claims	1-12
	No: Claims	

**2. Citations and explanations (Rule 70.7):**

**see separate sheet**

**Box No. VI Certain documents cited**

**1. Certain published documents (Rule 70.10)**

**and / or**

**2. Non-written disclosures (Rule 70.9)**

**see separate sheet**

**Box No. VII Certain defects in the international application**

The following defects in the form or contents of the international application have been noted:

**see separate sheet**

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Cited documents:

D1: DE 100 04 321 A (WACKER CHEMIE GMBH) 9 August 2001 (2001-08-09)

D2: WO 03/080007 A (CIBA SC HOLDING AG ; CHROBACZEK HARALD (DE); ELDER STEWART TODD (US);) 2 October 2003 (2003-10-02)

D3: WO 03/029351 A (CHROBACZEK HARALD ; LINDMAIR GABRIELE (DE); CIBA SPEZIALITAETENCHEMIE) 10 April 2003 (2003-04-10)

D4: US-A-5 618 525 (BUENNING EINHARD) 8 April 1997 (1997-04-08)

D5: DE 102 14 290 A (GE BAYER SILICONES GMBH & CO) 9 October 2003 (2003-10-09)

D6: US-A-5 725 736 (SCHROEDER WEN ZYO ET AL) 10 March 1998 (1998-03-10)

D7: WO 02/10259 A (SOCKEL KARL HEINZ ; LANGE HORST (DE); WAGNER ROLAND (DE); FIRSTENBERG) 7 February 2002 (2002-02-07)

D8: US-B-6 482 9691 (HELMRICK LIZA RUTH ET AL) 19 November 2002 (2002-11-19)

**1. Novelty (Art. 33 (2) PCT)**

Each of cited documents D1 to D4 discloses quaternized polysiloxanes as specified in detail in present independent main claim 1 (for relevant passages, see the corresponding International Search Report).

Consequently, each of said documents D1 to D42 anticipates the subject

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matter of present claim 1.

The same considerations also relate to the additional features of the following claims 2 to 12 when taking into account the full disclosure of each of said documents D1 to D4.

**Therefore the subject matter of present application is not new in view of the disclosure of each of said documents D1 to D4.**

**2. Inventive Step (Art. 33 (3) PCT)**

Providing an amended main claim which meets the requirements of Art. 33 (2) PCT, the applicant should relate the distinguishing feature to a surprising (unexpected) technical effect or make credible or plausible that the distinguishing feature is not derivable from the prior art teaching (Art. 33 (3) PCT).

**3. Miscellaneous**

In order to improve the understanding and legibility of the application, in the European regional phase, if any, the applicant is invited to identify the documents D1 to D4 in the description additionally and briefly discuss the relevant background art disclosed therein.

Document D5 may become relevant in any subsequent German national proceedings and was forwarded for information purposes only.

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When filing amendments, any undue extension of the scope of the application should be avoided.